

# WOMEN IN ARBITRATION

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PROGRESSING THROUGH THE PIPELINE

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## BARRIERS TO APPOINTMENT

- The ICCA Report identified barriers to appointment of female arbitrators as including: *“leaks in the pipeline” of qualified female candidates, such as retention of women in private practice, the promotion of women to senior ranks within an organization, and the availability of opportunities (or the awareness of opportunities) for women to gain relevant experience and promote their visibility and reputation among users of international arbitration.*
- The ICCA Report also identified *“additional barriers”* to obtaining arbitral appointments which included *“unconscious bias, gender stereotyping, and information barriers”*.



# THE PIPELINE

- 2010 Law Society Survey: 65% of law students were female, 20% of partners were female (UK)
- 2019 American Bar Association: 50% associates were female, <20% of partners were female (US)
- 2019 Acritas/Reuters study 61% of trainees in participating firms were female, 22% of partners were female (UK)
- 2018 top ten arbitration practices: 22% of partners were female (Global)



Source: McKinsey study 2017  
(looking at US firms)

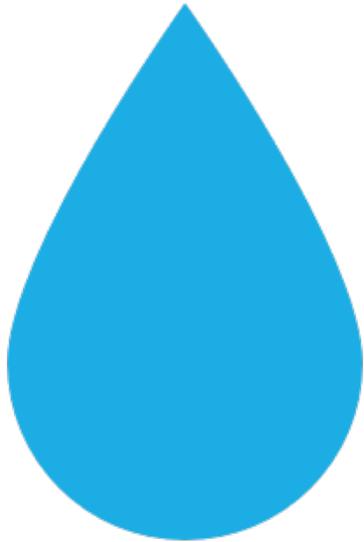
## WHY DOES THE PIPELINE LEAK?

- family/caring responsibilities
- office climate
- difficulties in managing dual careers
- lack of female role models and mentors
- lack of flexible work options and attitudes to flexible working

*73% of men and 85% of women invoked the work/family narrative to explain why women don't advance (2012 Harvard survey)*



## WHY DOES THE PIPELINE REALLY LEAK?



- Long hours are detrimental to everyone but disproportionately penalize women because they take accommodations (flexible working) more frequently than men.  
*“More often than not people who work flexibility get paid less for doing the same amount of work or bearing similar responsibilities. Also, they are generally not seen as high performer and future leaders. To me, opportunity, trust and empowerment (or lack there of) are more important factors.” (law firm partner, 2020)*
- All employees who took accommodations were stigmatized and saw their careers derailed.  
*“The upshot for women at the individual level was sacrifices in power, status, and income; at the collective level, it meant the continuation of a pattern in which powerful positions remained the purview of men”. (2019 18-month study of law firms: Padavic, Ely, Reid)*
- Work/family problem is seen as a woman’s problem. But men are as likely as women to say that work interfered with family life.
- Push factors to leave firms: (i) work/family narrative encourages women to step away (ii) perceptions about women’s abilities to lead meetings (iii) negative perceptions of women with children (Padavic, Ely, Reid “we heard zero positive comments about women with children”.)
- Unconscious bias the “main barrier to women’s career progression in law” (2019 Law Society Survey)
- *“The persistence of these barriers further indicates that gender diversity in arbitral tribunals may not simply be an issue that will resolve by itself over time” (ICCA Report)*

# RETENTION OF WOMEN: WHAT WORKS

## LOWER PERFORMING GROUP

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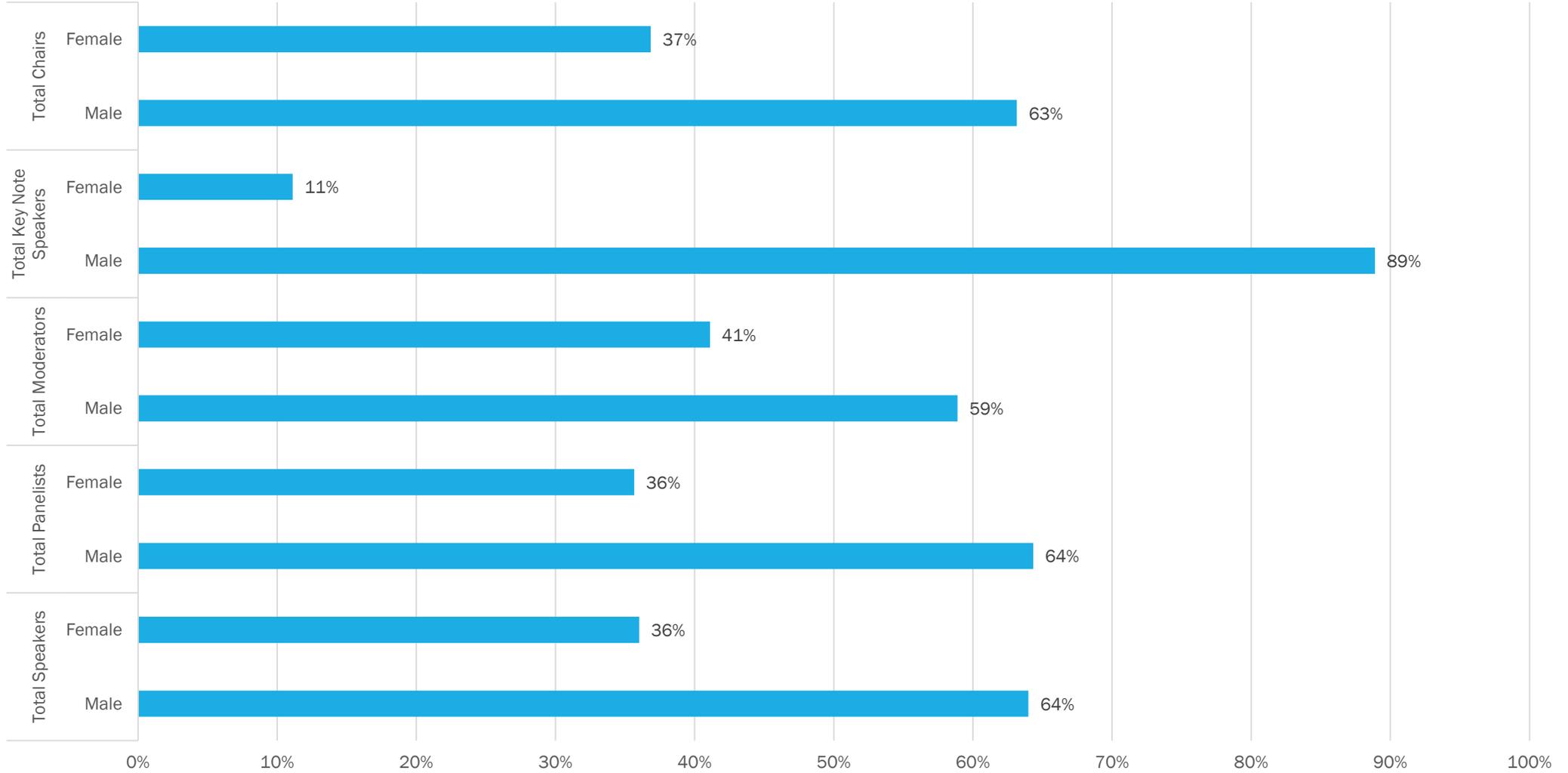
- We offer mentors across the firm
- We offer parental coaching/ support for returning parents
- We offer line managers coaching in supporting returning parents
- We create gender neutral networking opportunities for our lawyers to build relationships with clients
- We run a women's network in the firm

## HIGHER PERFORMING GROUP

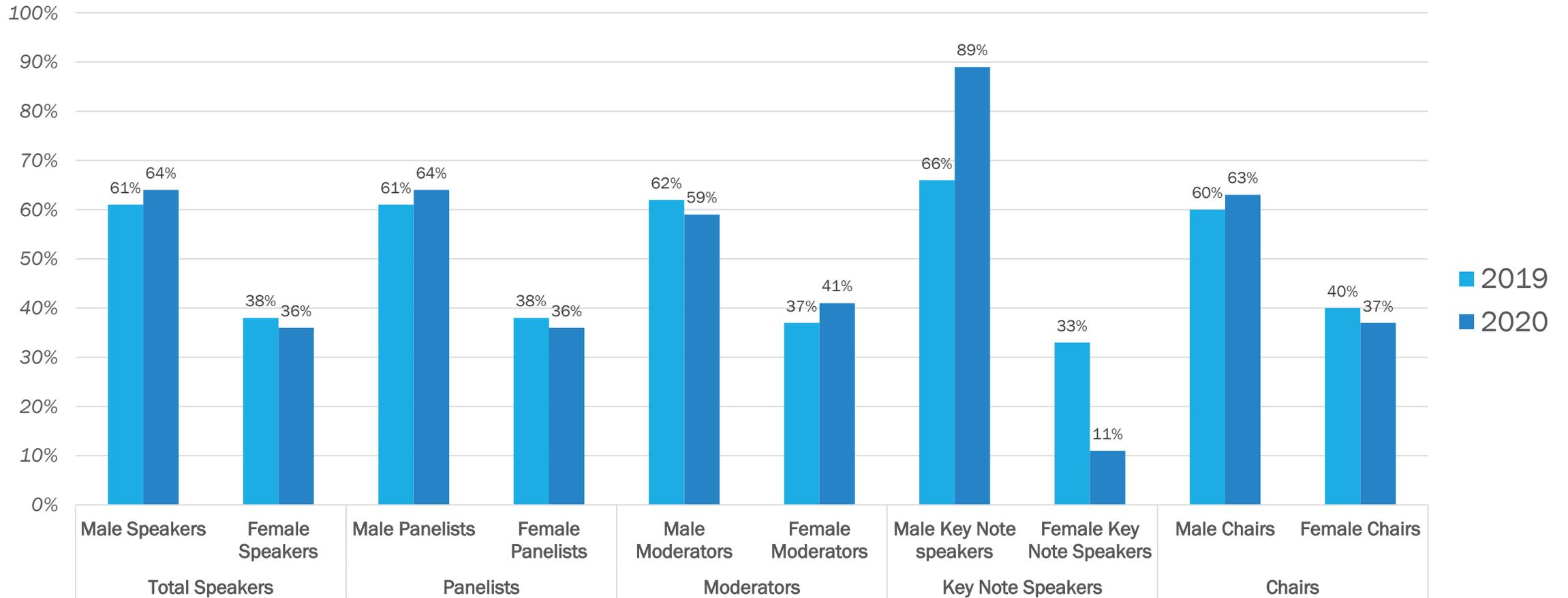
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- We ensure there is a representative balance of men and women in all pitches and RFPs
- We ensure there is a representative balance of men and women working on all matters requiring a team
- Compensation criteria is transparent
- We have openly declared a target for the proportion of female partners we want to achieve at our firm
- Our leadership reinforces gender diversity as a strategic priority in their talk and actions
- We have a board-level representative where a significant part of their role is focused on diversity
- We offer training on sexual harassment and bullying to all senior roles
- We open our women's network to men
- Our practice leaders are embracing our diversity initiatives and goals

ARBITRATION SPECIFIC ISSUES:  
VISIBILITY – SPEAKING AT CONFERENCES 2020



## VISIBILITY – SPEAKING AT CONFERENCES COMPARING 2019 AND 2020 SO FAR



## The ICCA Reports No. 8

REPORT OF THE CROSS-INSTITUTIONAL TASK FORCE ON GENDER DIVERSITY IN ARBITRAL APPOINTMENTS AND PROCEEDINGS

# FINAL THOUGHTS

- **Gender diversity must be a strategic goal and reinforced with action**
- ICCA Report Section IV: concrete actions to take
- **Female lawyers need to get their fair share of matter experience and client exposure**
- Consciously seek to ensure matter teams are representative of both sexes. The ICCA Report highlights the value of in house counsel demanding law firms field balanced teams.
- **Training: bias and behaviour – not women**
- ICCA Report recommends unconscious bias training (Arbitral Women Diversity Toolkit, Alliance for Equal Representation in Arbitrator Workshop) ICCA Report also addressed concerns over harassment and the value of training addressing appropriate behaviours in the workplace.
- **Reconsider initiatives that create silos or put women off**
- Women only networks can be damaging for gender balance. Mentoring and coaching programs also showed a negative correlation. Leadership training for women implies women need leadership training...
- **No more manels or over-representation of men speaking at conferences**
- The ICCA Report emphasized the importance of visibility. Refuse to participate in unbalanced conferences.



The Cross-Institutional Task Force on Gender Diversity in Arbitral Appointments and Proceedings is pleased to announce the release of its Report, the eighth Volume of the ICCA Reports Series. This Report outlines the significance and benefits of gender diversity to the field of international arbitration; provides recent statistics on the appointment of female arbitrators; and identifies opportunities and best practices to promote gender diversity in international dispute resolution.

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